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Senate Engrossed House Bill

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

HOUSE BILL 2404

AN ACT

AMENDING SECTIONS 12-119, 38-842, 38-847, 41-790, 41-796, 41-1304, 41-1304.05, 41-1712 AND 41-1713, ARIZONA REVISED STATUTES; REPEALING SECTIONS 41-794 AND 41-795, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF ADMINISTRATION CAPITOL POLICE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-119, Arizona Revised Statutes, is amended to
3 read:

4 12-119. Facilities management

5 The supreme court may obtain OPERATIONAL AND MAINTENANCE ASSISTANCE
6 from the department of administration ~~operational, maintenance~~ and security
7 assistance FROM THE DEPARTMENT OF PUBLIC SAFETY for any supreme court
8 facility or may employ personnel or contract for outside services for the
9 operation, maintenance and security of such facility. The supreme court and
10 division one of the court of appeals shall be housed in the Arizona courts
11 building. FOR THE PURPOSES OF THIS SECTION, SECURITY DOES NOT MEAN SECURITY
12 SERVICES RELATED TO BUILDING OPERATION AND MAINTENANCE FUNCTIONS PROVIDED BY
13 THE DEPARTMENT OF ADMINISTRATION.

14 Sec. 2. Section 38-842, Arizona Revised Statutes, is amended to read:

15 38-842. Definitions

16 In this article, unless the context otherwise requires:

17 1. "Accidental disability" means a physical or mental condition which
18 the local board finds totally and permanently prevents an employee from
19 performing a reasonable range of duties within the employee's job
20 classification and was incurred in the performance of the employee's duty.

21 2. "Accumulated contributions" means, for each member, the sum of the
22 amount of the member's aggregate contributions made to the fund and the
23 amount, if any, attributable to the employee's contributions prior to the
24 member's effective date under another public retirement system, other than
25 the federal social security act, and transferred to the fund minus the
26 benefits paid to or on behalf of the member.

27 3. "Actuarial equivalent" means equality in present value of the
28 aggregate amounts expected to be received under two different forms of
29 payment, based on mortality and interest assumptions adopted by the fund
30 manager. The fund manager may from time to time change the mortality and
31 interest assumptions.

32 4. "Average monthly benefit compensation" means the result obtained by
33 dividing the total compensation paid to an employee during a considered
34 period by the number of months, including fractional months, in which such
35 compensation was received. The considered period shall be the three
36 consecutive years within the last twenty completed years of credited service
37 which yield the highest average. In the computation under this paragraph a
38 period of nonpaid or partially paid industrial leave shall be considered
39 based on the compensation the employee would have received in the employee's
40 job classification if the employee was not on industrial leave.

41 5. "Catastrophic disability" means a physical condition that is not an
42 accidental disability, that the local board determines prevents the employee
43 from totally and permanently engaging in any gainful employment and that
44 results from a catastrophic physical injury incurred in the performance of
45 the employee's duty.

1 6. "Certified peace officer" means a peace officer certified by the
2 Arizona peace officers standards and training board.

3 7. "Claimant" means any member or beneficiary who files an application
4 for benefits pursuant to this article.

5 8. "Compensation" means, for the purpose of computing retirement
6 benefits, base salary, overtime pay, shift differential pay and holiday pay
7 paid to an employee by the employer on a regular monthly, semimonthly or
8 biweekly payroll basis and longevity pay paid to an employee at least every
9 six months for which contributions are made to the system pursuant to section
10 38-843, subsection D. Compensation does not include, for the purpose of
11 computing retirement benefits, payment for unused sick leave, payment in lieu
12 of vacation, payment for compensatory time or any other payment for fringe
13 benefits.

14 9. "Credited service" means the member's total period of service prior
15 to the member's effective date of participation, plus those compensated
16 periods of the member's service thereafter for which the member made
17 contributions to the fund.

18 10. "Depository" means a bank in which all monies of the system are
19 deposited and held and from which all expenditures for benefits, expenses and
20 investments are disbursed.

21 11. "Effective date of participation" means July 1, 1968, except with
22 respect to employers and their covered employees whose contributions to the
23 fund commence thereafter, the effective date of their participation in the
24 system is as specified in the applicable joinder agreement.

25 12. "Effective date of vesting" means the date a member's rights to
26 benefits vest pursuant to section 38-844.01.

27 13. "Eligible child" means the unmarried child of a deceased member who
28 is under the age of eighteen or a full-time student who is under the age of
29 twenty-three or under a disability which began before the child attained the
30 age of twenty-three and who remains a dependent of the surviving spouse or
31 guardian.

32 14. "Eligible groups" means only the following who are regularly
33 assigned to hazardous duty:

34 (a) Municipal police officers who are certified peace officers.

35 (b) Municipal fire fighters.

36 (c) Paid full-time fire fighters employed directly by a fire district
37 organized pursuant to section 48-803 or 48-804 with three or more full-time
38 fire fighters, but not including fire fighters employed by a fire district
39 pursuant to a contract with a corporation.

40 (d) State highway patrol officers who are certified peace officers.

41 (e) State fire fighters.

42 (f) County sheriffs and deputies who are certified peace officers.

43 (g) Fish and game wardens who are certified peace officers.

44 (h) Police officers who are certified peace officers and fire fighters
45 of a nonprofit corporation operating a public airport pursuant to sections
46 28-8423 and 28-8424. A police officer shall be designated pursuant to

1 section 28-8426 to aid and supplement state and local law enforcement
2 agencies and a fire fighter's sole duty shall be to perform fire fighting
3 services, including services required by federal regulations.

4 (i) Police officers who are certified peace officers and who are
5 appointed by the Arizona board of regents.

6 (j) Police officers who are certified peace officers and who are
7 appointed by a community college district governing board.

8 (k) State attorney general investigators who are certified peace
9 officers.

10 (l) County attorney investigators who are certified peace officers.

11 (m) Police officers who are certified peace officers and who are
12 employed by an Indian reservation police agency.

13 (n) Fire fighters who are employed by an Indian reservation fire
14 fighting agency.

15 ~~(o) Police officers who are certified peace officers and who are~~
16 ~~appointed by the department of administration.~~

17 ~~(p)~~ (o) Department of liquor licenses and control investigators who
18 are certified peace officers.

19 ~~(q)~~ (p) Arizona department of agriculture officers who are certified
20 peace officers.

21 ~~(r)~~ (q) Arizona state parks board rangers and managers who are
22 certified peace officers.

23 ~~(s)~~ (r) County park rangers who are certified peace officers.

24 15. "Employee" means any person who is employed by a participating
25 employer and who is a member of an eligible group but does not include any
26 persons compensated on a contractual or fee basis. If an eligible group
27 requires certified peace officer status and at the option of the local board,
28 employee may include a person who is training to become a certified peace
29 officer.

30 16. "Employers" means:

31 (a) Cities contributing to the fire fighters' relief and pension fund
32 as provided in sections 9-951 through 9-971 or statutes amended thereby and
33 antecedent thereto, as of June 30, 1968 on behalf of their full-time paid
34 fire fighters.

35 (b) Cities contributing under the state police pension laws as
36 provided in sections 9-911 through 9-934 or statutes amended thereby and
37 antecedent thereto, as of June 30, 1968 on behalf of their municipal
38 policemen.

39 (c) The state highway patrol covered under the state highway patrol
40 retirement system.

41 (d) The state, or any political subdivision thereof, including but not
42 limited to towns, cities, fire districts, counties and nonprofit corporations
43 operating public airports pursuant to sections 28-8423 and 28-8424, which has
44 elected to participate in the system on behalf of an eligible group of public
45 safety personnel pursuant to a joinder agreement entered into after July 1,
46 1968.

1 (e) Indian tribes which have elected to participate in the system on
2 behalf of an eligible group of public safety personnel pursuant to a joinder
3 agreement entered into after July 1, 1968.

4 17. "Fund" means the public safety personnel retirement fund, which is
5 the fund established to receive and invest contributions accumulated under
6 the system and from which benefits are paid.

7 18. "Fund manager" means the fund manager of the system, who are the
8 persons appointed to invest and operate the fund.

9 19. "Local board" means the retirement board of the employer, who are
10 the persons appointed to administer the system as it applies to their members
11 in the system.

12 20. "Member" means any employee who meets all of the following
13 qualifications:

14 (a) Who is either a full-time paid municipal police officer, a
15 full-time paid fire fighter, a law enforcement officer who is employed by the
16 state including the director thereof, a state fire fighter who is primarily
17 assigned to fire fighting duties, a fire fighter or police officer of a
18 nonprofit corporation operating a public airport pursuant to sections 28-8423
19 and 28-8424, all ranks designated by the Arizona law enforcement merit system
20 council, a state attorney general investigator who is a certified peace
21 officer, a county attorney investigator who is a certified peace officer,
22 ~~a police officer who is appointed by the department of administration and who~~
23 ~~is a certified peace officer,~~ a department of liquor licenses and control
24 investigator who is a certified peace officer, an Arizona department of
25 agriculture officer who is a certified peace officer, an Arizona state parks
26 board ranger or manager who is a certified peace officer, a county park
27 ranger who is a certified peace officer, a person who is a certified peace
28 officer and who is employed by an Indian reservation police agency, a fire
29 fighter who is employed by an Indian reservation fire fighting agency or an
30 employee included in a group designated as eligible employees under a joinder
31 agreement entered into by their employer after July 1, 1968 and who is or was
32 regularly assigned to hazardous duty.

33 (b) Who, on or after the employee's effective date of participation,
34 is receiving compensation for personal services rendered to an employer or
35 would be receiving compensation except for an authorized leave of absence.

36 (c) Whose employment with an employer commenced prior to attainment of
37 age fifty.

38 (d) Whose customary employment is at least forty hours per week and
39 for more than six months in a calendar year.

40 (e) Who has not attained age sixty-five prior to the employee's
41 effective date of participation or who was over age sixty-five with
42 twenty-five years or more of service prior to the employee's effective date
43 of participation.

1 21. "Normal retirement date" means the first day of the calendar month
2 immediately following an employee's completion of twenty years of service or
3 the employee's sixty-second birthday and the employee's completion of fifteen
4 years of service.

5 22. "Ordinary disability" means a physical condition which the local
6 board determines will prevent an employee totally and permanently from
7 performing a reasonable range of duties within the employee's department or a
8 mental condition which the local board determines will prevent an employee
9 totally and permanently from engaging in any substantial gainful activity.

10 23. "Pension" means a series of monthly amounts which are payable to a
11 person who is entitled to receive benefits under the plan.

12 24. "Regularly assigned to hazardous duty" means regularly assigned to
13 duties of the type normally expected of municipal police officers, municipal
14 or state fire fighters, eligible fire district fire fighters, state highway
15 patrol officers, county sheriffs and deputies, fish and game wardens, fire
16 fighters and police officers of a nonprofit corporation operating a public
17 airport pursuant to sections 28-8423 and 28-8424, police officers who are
18 appointed by the Arizona board of regents or a community college district
19 governing board, state attorney general investigators who are certified peace
20 officers, county attorney investigators who are certified peace officers,
21 ~~police officers who are appointed by the department of administration and who~~
22 ~~are certified peace officers,~~ department of liquor licenses and control
23 investigators who are certified peace officers, Arizona department of
24 agriculture officers who are certified peace officers, Arizona state parks
25 board rangers and managers who are certified peace officers, county park
26 rangers who are certified peace officers, police officers who are certified
27 peace officers and are employed by an Indian reservation police agency or
28 fire fighters who are employed by an Indian reservation fire fighting
29 agency. Those individuals who are assigned solely to support duties such as
30 secretaries, stenographers, clerical personnel, clerks, cooks, maintenance
31 personnel, mechanics and dispatchers are not assigned to hazardous duty
32 regardless of their position classification title. Since the normal duties
33 of ~~municipal police officers, municipal or state fire fighters, eligible fire~~
34 ~~district fire fighters, state highway patrol officers, county sheriffs and~~
35 ~~deputies, fish and game wardens, fire fighters and police officers of a~~
36 ~~nonprofit corporation operating a public airport pursuant to sections 28-8423~~
37 ~~and 28-8424, police officers who are appointed by the Arizona board of~~
38 ~~regents or a community college district governing board, state attorney~~
39 ~~general investigators who are certified peace officers, county attorney~~
40 ~~investigators who are certified peace officers, police officers who are~~
41 ~~appointed by the department of administration and who are certified peace~~
42 ~~officers, department of liquor licenses and control investigators who are~~
43 ~~certified peace officers, Arizona department of agriculture officers who are~~
44 ~~certified peace officers, Arizona state parks board rangers and managers who~~
45 ~~are certified peace officers, county park rangers who are certified peace~~
46 ~~officers, police officers who are certified peace officers and are employed~~

1 ~~by an Indian reservation police agency and fire fighters who are employed by~~
2 ~~an Indian reservation fire fighting agency~~ AN EMPLOYEE OF AN ELIGIBLE GROUP
3 are constantly changing, questions as to whether a person is or was
4 previously regularly assigned to hazardous duty shall be resolved by the
5 local board on a case-by-case basis. Resolutions by local boards are subject
6 to rehearing and appeal.

7 25. "Retirement" means termination of employment after a member has
8 fulfilled all requirements for a pension. Retirement shall be considered as
9 commencing on the first day of the month immediately following a member's
10 last day of employment or authorized leave of absence, if later.

11 26. "Service" means the last period of continuous employment of an
12 employee by the employers prior to the employee's retirement or the
13 employee's sixty-fifth birthday, whichever first occurs, except that if such
14 period includes employment during which the employee would not have qualified
15 as a member had the system then been effective, such as employment as a
16 volunteer fire fighter, then only twenty-five per cent of such noncovered
17 employment shall be considered as service. Any absence which is authorized
18 by an employer shall not be considered as interrupting continuity of
19 employment if the employee returns within the period of authorized absence.
20 Transfers between employers also shall not be considered as interrupting
21 continuity of employment. Any period during which a member is receiving sick
22 leave payments or a temporary disability pension shall be considered as
23 service. Any period during which a person was employed as a full-time paid
24 fire fighter by a fire district pursuant to a contract with a corporation
25 within that fire district shall be considered as service if it is part of the
26 person's last period of continuous employment with that corporation in that
27 fire district and the fire district has elected to treat the period as
28 service in its applicable joinder agreement. Any reference in this system to
29 the number of years of service of an employee shall be deemed to include
30 fractional portions of a year.

31 27. "State" means the state of Arizona, including any department,
32 office, board, commission, agency or other instrumentality of the state.

33 28. "System" means the public safety personnel retirement system
34 established by this article.

35 29. "Temporary disability" means a physical or mental condition which
36 the local board finds totally and temporarily prevents an employee from
37 performing a reasonable range of duties within the employee's department and
38 which was incurred in the performance of the employee's duty.

39 Sec. 3. Section 38-847, Arizona Revised Statutes, is amended to read:

40 38-847. Local boards

41 A. The administration of the system and responsibility for making the
42 provisions of the system effective for each employer are vested in a local
43 board. The department of public safety, the Arizona game and fish
44 department, the department of emergency and military affairs, the university
45 of Arizona, Arizona state university, northern Arizona university, each
46 county sheriff's office, each county attorney's office, each county parks

department, each municipal fire department, each eligible fire district, each community college district, each municipal police department, the department of law, ~~the department of administration~~, the department of liquor licenses and control, the Arizona department of agriculture, the Arizona state parks board, each Indian reservation police agency and each Indian reservation fire fighting agency shall have a local board. A nonprofit corporation operating pursuant to sections 28-8423 and 28-8424 shall have one board for all of its members. Each local board shall be constituted as follows:

1. For political subdivisions or Indian tribes, the mayor or chief elected official or a designee of the mayor or chief elected official approved by the respective governing body as chairman, two members elected by secret ballot by members employed by the appropriate employer and two citizens, one of whom shall be the head of the merit system if it exists for the group of members, appointed by the mayor or chief elected official and with the approval of the governing body of the city or the governing body of the employer. The appointed two citizens shall serve on both local boards in a city or Indian tribes where both fire and police department employees are members.

2. For state agencies and nonprofit corporations operating pursuant to sections 28-8423 and 28-8424, two members elected by secret ballot by members employed by the appropriate employer and three citizens appointed by the governor. Each state agency local board shall elect a chairman.

3. For fire districts organized pursuant to section 48-804, the secretary-treasurer as chairman, two members elected by secret ballot by members employed by the fire district and two citizens appointed by the secretary-treasurer, one of whom is a resident of the fire district and one of whom has experience in personnel administration but who is not required to be a resident of the fire district.

B. Upon the taking effect of this system for an employer, the appointments and elections of board members shall take place with one elective and appointive board member serving a term ending two years after the effective date of participation for the employer and other local board members serving a term ending four years after the effective date. Thereafter, every second year, and as a vacancy occurs, an office shall be filled for a term of four years in the same manner as previously provided.

C. Each member of a local board ~~shall~~, within ten days after the member's appointment or election, **SHALL** take an oath of office that, so far as it devolves upon the member, the member shall diligently and honestly administer the affairs of the local board and that the member shall not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the system.

D. Except as limited by subsection E of this section, a local board shall have such powers as may be necessary to discharge the following duties:

1. To decide all questions of eligibility and service credits, and determine the amount, manner and time of payment of any benefits under the system.

1 2. To prescribe procedures to be followed by claimants in filing
2 applications for benefits.

3 3. To make a determination as to the right of any claimant to a
4 benefit and to afford any claimant or the fund manager, or both, a right to a
5 rehearing on the original determination.

6 4. To request and receive from the employers and from members such
7 information as is necessary for the proper administration of the system and
8 action on claims for benefits and to forward such information to the fund
9 manager.

10 5. To distribute, in such manner as the local board determines to be
11 appropriate, information explaining the system received from the fund
12 manager.

13 6. To furnish the employer, the fund manager, and the legislature,
14 upon request, with such annual reports with respect to the administration of
15 the system as are reasonable and appropriate.

16 7. To receive and review the actuarial valuation of the system for its
17 group of members.

18 8. To receive and review reports of the financial condition and of the
19 receipts and disbursements of the fund from the fund manager.

20 9. To appoint medical boards as provided in section 38-859.

21 10. To sue and be sued to effectuate the duties and responsibilities
22 set forth in this article.

23 E. A local board shall have no power to add to, subtract from, modify
24 or waive any of the terms of the system, change or add to any benefits
25 provided by the system or waive or fail to apply any requirement of
26 eligibility for membership or benefits under the system.

27 F. A local board ~~shall~~, from time to time, **SHALL** establish and adopt
28 such rules as it deems necessary or desirable for its administration. All
29 rules and decisions of a board shall be uniformly and consistently applied to
30 all members in similar circumstances.

31 G. Any action by a majority vote of the members of a local board which
32 is not inconsistent with the provisions of the system shall be final,
33 conclusive and binding upon all persons affected by it unless a timely
34 application for a rehearing or appeal is filed as provided in this article.

35 H. A claimant or the fund manager may apply for a rehearing before the
36 local board within the time period prescribed in this subsection. An
37 application for a rehearing shall be filed in writing with a member of the
38 local board or its secretary within sixty days after:

39 1. The applicant-claimant receives notification of the local board's
40 original action by certified mail, by attending the meeting at which the
41 action is taken or by receiving benefits from the system pursuant to the
42 local board's original action, whichever occurs first.

43 2. The applicant-fund manager receives notification of the local
44 board's original action by certified mail or by receipt of written directions
45 from the local board pursuant to its original action, whichever occurs first.

1 I. A hearing before a local board on a matter remanded from the
2 superior court is not subject to a rehearing before the local board.

3 J. Decisions of local boards are subject to judicial review pursuant
4 to title 12, chapter 7, article 6.

5 K. When making a ruling, determination or calculation, the local board
6 shall be entitled to rely upon information furnished by the employer, the
7 fund manager, independent legal counsel, or the actuary for the system.

8 L. Each member of a local board is entitled to one vote. A majority
9 of the appointed and elected members is necessary for a decision by the
10 members of a local board at any meeting of the local board.

11 M. The local board shall adopt such bylaws as it deems desirable. The
12 local board shall elect a secretary who may, but need not, be a member of the
13 local board. The secretary of the local board shall keep a record and
14 prepare minutes of all meetings, forward the minutes to the fund manager
15 within forty-five days after each meeting and forward all necessary
16 communications to the fund manager.

17 N. The fees of the medical board and of local legal counsel and all
18 other expenses of the local board necessary for the administration of the
19 system shall be paid by the employer at such rates and in such amounts as the
20 local board shall approve.

21 O. The local board shall issue directions to the fund manager
22 concerning all benefits which are to be paid from the employer's account
23 pursuant to the provisions of the fund. The local board shall keep on file,
24 in such manner as it may deem convenient or proper, all reports from the fund
25 manager and the actuary.

26 P. The local board and the individual members of the local board shall
27 be indemnified from the assets of the employer's account in the fund against
28 any and all liabilities arising by reason of any act, or failure to act, made
29 in good faith pursuant to the provisions of the system, including expenses
30 reasonably incurred in the defense of any claim relating to the act or
31 failure to act.

32 Sec. 4. Section 41-790, Arizona Revised Statutes, is amended to read:

33 41-790. Definitions

34 In this article, unless the context otherwise requires:

35 1. "Building renewal" means major activities that involve the repair
36 or reworking of a building and the supporting infrastructure that will result
37 in maintaining a building's expected useful life. Building renewal does not
38 include new building additions, new infrastructure additions, landscaping and
39 area beautification, routine maintenance or demolition and removal of a
40 building.

41 2. "Building system" means a group of buildings which together
42 constitute a single unit for purposes of planning, land acquisition,
43 construction or building renewal.

44 3. "Capital projects" means buildings, structures, facilities and
45 areas constructed for the use or benefit of this state.

1 4. "Infrastructure" means nonbuilding improvements that directly
2 support operating a facility that is listed in the annual building system
3 such as utility delivery systems, roadway systems, external lighting systems,
4 irrigation systems, sidewalks and parking lots.

5 5. "Land acquisition" means the procurement of real property by gift,
6 grant, purchase, lease purchase, condemnation or other lawful means.

7 6. "SECURITY" MEANS SECURITY SERVICES RELATED TO BUILDING OPERATION
8 AND MAINTENANCE FUNCTIONS PROVIDED BY THE DEPARTMENT.

9 ~~6-~~ 7. "State capitol building" means:

10 (a) The original 1898 statehouse known as the state capitol museum.

11 (b) The 1919 state capitol wing and the 1938 state capitol justice
12 addition known jointly as the legislative services wing.

13 (c) The house of representatives wing.

14 (d) The senate wing.

15 (e) The west wing known as the state capitol executive tower.

16 Sec. 5. Repeal

17 Sections 41-794 and 41-795, Arizona Revised Statutes, are repealed.

18 Sec. 6. Section 41-796, Arizona Revised Statutes, is amended to read:

19 41-796. Regulation of traffic and parking; monetary penalties;
20 hearing; state traffic and parking control fund;
21 definition

22 A. The department of administration may adopt and administratively
23 enforce rules for the control of vehicles on state property with respect only
24 to the following:

25 1. Maximum speed of vehicles.

26 2. Direction of travel.

27 3. Place, method and time of parking.

28 4. Nonparking areas.

29 5. Designation of special parking areas for state employees and the
30 general public.

31 6. Prohibiting parking in vehicle emissions control areas as defined
32 in section 49-541 of those vehicles which fail to comply with section 49-542.

33 B. The department shall adopt and administratively enforce rules
34 requiring the designation of preferential parking areas, such as reserved,
35 close-in or covered parking, to state employees with offices in vehicle
36 emissions control areas as defined in section 49-541 who are car pool
37 operators as defined in section 28-4032 or who drive vehicles powered by
38 alternative fuel as defined in section 1-215.

39 C. The department may prescribe and collect reasonable monetary
40 penalties for violations of the rules adopted pursuant to subsection A of
41 this section.

42 D. The department shall:

43 1. Cause signs, markings and notices to be posted on the property for
44 the regulation of vehicles.

45 2. Maintain parking lots and structures.

1 E. ~~Police personnel shall be authorized to issue a notice to appear~~
2 ~~for an alleged violation in the form adopted by the department directing a~~
3 ~~person accused of violating a rule for control of vehicles on state property~~
4 ~~adopted pursuant to this section to appear at a designated place to contest~~
5 ~~the allegation of violation or to admit the violation and pay a~~
6 ~~penalty. Upon~~ ON THE failure of a person ~~served with a notice under~~ WHO IS
7 ISSUED A CITATION FOR A VIOLATION OF A RULE ADOPTED PURSUANT TO this section
8 to appear, the administrative law judge may proceed to determine whether a
9 violation has occurred and, if so, the penalty to be imposed.

10 F. Penalties ~~which~~ THAT are imposed pursuant to this section and ~~which~~
11 THAT are not paid within the time prescribed by the administrative law judge
12 may be collected by an action filed with the justice court.

13 G. A state traffic and parking control fund is established consisting
14 of monetary penalties collected pursuant to this section. The department
15 shall administer the fund. Monies in the fund are continuously appropriated
16 and are exempt from the provisions of section 35-190 relating to lapsing of
17 appropriations.

18 H. All monetary penalties collected by the department for violations
19 of the rules adopted pursuant to subsection A of this section shall be
20 deposited in the state traffic and parking control fund.

21 I. Except as provided in section 41-1092.08, subsection H, a person
22 who has received a final administrative ruling concerning a penalty imposed
23 on the person as a result of a violation of a rule adopted pursuant to this
24 section may have that ruling reviewed by the superior court in the county in
25 which the institution involved is located pursuant to title 12, chapter 7,
26 article 6.

27 J. ~~As used in~~ FOR THE PURPOSES OF this section, "state property" means
28 property ~~which~~ THAT is the responsibility of the department under section
29 41-791 and property ~~which~~ THAT is the responsibility of the speaker of the
30 house of representatives or the president of the senate under section
31 41-1304.05.

32 Sec. 7. Section 41-1304, Arizona Revised Statutes, is amended to read:
33 41-1304. Powers and duties

34 A. The legislative council shall:

35 1. Provide bill drafting, research and other services to the
36 legislature deemed necessary or advisable by the council to improve the
37 quality of legislation and to insure full participation by the legislative
38 branch in determining and reviewing policy and the administration of state
39 affairs.

40 2. Adopt rules and formulate policies for the administration of this
41 article and for the conduct of the affairs of the council.

42 3. Appoint ~~such~~ clerical, stenographic, technical and professional
43 assistants deemed necessary or advisable to carry out the provisions of this
44 article, ~~and~~ fix their compensation and prescribe their powers and duties.

45 4. Consult with state departments or officers engaged in carrying out
46 construction programs authorized by law, and investigate the conduct of the

1 programs, with particular reference to the plans for and type of
2 construction.

3 5. Maintain a legislative reference library, containing legal,
4 statistical and descriptive data and authoritative philosophical and
5 scientific treatises on current and potential legislative subjects.

6 6. Procure information at the request of members of the legislature or
7 state officers on any legislative subject.

8 7. Prepare or revise bills and other legislative measures for members
9 or committees of the legislature and, on request of a member of the
10 legislature, for state officers and agencies.

11 8. Prepare and issue styles and forms for drafting bills, amendments
12 and other legislative measures for the use of the legislature, state officers
13 and persons interested in drafting amendments and bills or measures for
14 introduction in the legislature. The styles and forms for drafting
15 amendments shall be developed and adopted in consultation and cooperation
16 with the senate and the house of representatives.

17 9. Prepare and file with the secretary of state, not later than sixty
18 days preceding the regular primary election, an analysis of the provisions of
19 each ballot proposal of a measure or proposed amendment.

20 10. Provide and maintain an office for the advocate for private
21 property rights pursuant to article 1.1 of this chapter.

22 B. The legislative council may purchase, lease and otherwise acquire
23 land and buildings and make improvements to land and buildings it acquires or
24 uses for the purpose of providing suitable facilities for the use of the
25 legislative department. The council may obtain operational, ~~AND~~ maintenance
26 ~~and security~~ assistance for any legislative facilities without charge from
27 the department of administration, **MAY OBTAIN SECURITY ASSISTANCE FROM THE**
28 **DEPARTMENT OF PUBLIC SAFETY**, may employ personnel to discharge ~~such~~
29 **OPERATIONAL, MAINTENANCE AND SECURITY** functions or may contract for outside
30 services payable from council appropriations.

31 Sec. 8. Section 41-1304.05, Arizona Revised Statutes, is amended to
32 read:

33 **41-1304.05. State capitol building areas and other facilities;**
34 **jurisdiction; maintenance; definition**

35 A. The legislative council is responsible for the allocation of space,
36 operation, alteration, renovation and control of the following:

37 1. The original 1898 statehouse area of the state capitol building
38 known as the state capitol museum.

39 2. The 1919 wing and the 1938 justice addition of the state capitol
40 building known jointly as the legislative services wing.

41 3. The public records retention center and the grounds adjacent to it.

42 4. Any other facility acquired for legislative use and placed under
43 legislative council jurisdiction and the grounds adjacent to it.

44 5. Except as provided in subsections B and C of this section, the
45 grounds adjacent to the state capitol museum, the legislative services wing,
46 the house of representatives wing and the senate wing and comprising the area

1 east of the state capitol executive tower with a northern boundary of west
2 Adams street, an eastern boundary of Seventeenth avenue and a southern
3 boundary of west Jefferson street in Phoenix, Arizona.

4 B. The speaker of the state house of representatives is responsible
5 for the following:

6 1. The allocation of space, operation, alteration, renovation and
7 control of the house of representatives wing of the state capitol building.

8 2. The allocation of space and control of the parking lot area
9 adjacent to the house of representatives wing, the parking lot area with a
10 southern boundary of west Adams street, an eastern boundary of Seventeenth
11 avenue and a northern boundary of west Monroe street in Phoenix, Arizona and
12 comprised of one hundred five parking spaces and the southeast portion of the
13 parking lot area with a southern boundary of west Monroe street and an
14 eastern boundary of Seventeenth avenue in Phoenix, Arizona and comprised of
15 fifty parking spaces.

16 C. The president of the state senate is responsible for the following:

17 1. The allocation of space, operation, alteration, renovation and
18 control of the senate wing of the state capitol building.

19 2. The allocation of space and control of the parking lot area
20 adjacent to the senate wing and the southwest portion of the parking lot area
21 of the Wesley Bolin memorial plaza east of the state capitol building and
22 comprised of one hundred twenty parking spaces.

23 D. The director of the department of administration is responsible for
24 the maintenance of the entire state capitol building and the public records
25 retention center subject to section 41-1304.

26 E. FOR THE PURPOSES OF THIS SECTION, "CONTROL" INCLUDES SECURITY
27 SERVICES.

28 Sec. 9. Section 41-1712, Arizona Revised Statutes, is amended to read:

29 41-1712. Organization of department; divisions

30 A. The department shall consist of the following divisions:

- 31 1. Arizona highway patrol.
- 32 2. Narcotics enforcement and criminal investigation.
- 33 3. Scientific criminal analysis.
- 34 4. Training and education.

35 5. CAPITOL POLICE.

36 B. The department may establish district headquarters and stations at
37 various places in the state, using existing facilities wherever possible,
38 with the personnel and equipment necessary for the proper functioning and
39 operation of the headquarters and stations.

40 C. The director may establish other divisions or reserves or
41 reorganize or consolidate the department.

42 Sec. 10. Section 41-1713, Arizona Revised Statutes, is amended to
43 read:

44 41-1713. Powers and duties of director; authentication of
45 records

46 A. The director of the department shall:

1 1. Be the administrative head of the department.

2 2. Subject to the merit system rules, appoint, suspend, demote,
3 promote or dismiss all other classified employees of the department upon the
4 recommendation of their respective division superintendent. The director
5 shall determine and furnish the law enforcement merit system council
6 established by section 41-1830.11 with a table of organization. The
7 superintendent of each division shall serve at the concurrent pleasure of the
8 director and the governor.

9 3. EXCEPT AS PROVIDED IN SECTIONS 12-119, 41-1304 AND 41-1304.05,
10 EMPLOY OFFICERS AND OTHER PERSONNEL AS THE DIRECTOR DEEMS NECESSARY FOR THE
11 PROTECTION AND SECURITY OF THE STATE BUILDINGS AND GROUNDS IN THE
12 GOVERNMENTAL MALL DESCRIBED IN SECTION 41-1362, STATE OFFICE BUILDINGS IN
13 TUCSON AND PERSONS WHO ARE ON ANY OF THOSE PROPERTIES. DEPARTMENT OFFICERS
14 MAY MAKE ARRESTS AND ISSUE CITATIONS FOR CRIMES OR TRAFFIC OFFENSES AND FOR
15 ANY VIOLATION OF A RULE ADOPTED UNDER SECTION 41-796. FOR THE PURPOSES OF
16 THIS PARAGRAPH, SECURITY DOES NOT MEAN SECURITY SERVICES RELATED TO BUILDING
17 OPERATION AND MAINTENANCE FUNCTIONS PROVIDED BY THE DEPARTMENT OF
18 ADMINISTRATION.

19 ~~3.~~ 4. Make rules necessary for the operation of the department.

20 ~~4.~~ 5. Annually submit a report of the work of the department to the
21 governor and the legislature, or more often if requested by the governor or
22 the legislature.

23 ~~5.~~ 6. Appoint a deputy director with the approval of the governor.

24 ~~6.~~ 7. Adopt an official seal which shall contain the words
25 "department of public safety" encircling the seal of this state as part of
26 its design.

27 ~~7.~~ 8. Investigate, on receipt, credible evidence that a licensee or
28 registrant has been arrested for, charged with or convicted of an offense
29 that would preclude the person from holding a license or registration
30 certificate issued pursuant to title 32, chapter 26.

31 ~~8.~~ 9. Cooperate with the Arizona-Mexico commission in the governor's
32 office and with researchers at universities in this state to collect data and
33 conduct projects in the United States and Mexico on issues that are within
34 the scope of the department's duties and that relate to quality of life,
35 trade and economic development in this state in a manner that will help the
36 Arizona-Mexico commission to assess and enhance the economic competitiveness
37 of this state and of the Arizona-Mexico region.

38 ~~9.~~ 10. Adopt and administer the breath, blood or other bodily
39 substances test rules pursuant to title 28, chapter 4.

40 ~~10.~~ 11. Develop procedures to exchange information with the department
41 of transportation for any purpose related to sections 28-1324, 28-1325,
42 28-1326, 28-1462 and 28-3318.

43 ~~11.~~ 12. Collaborate with the state forester in presentations to
44 legislative committees on issues associated with wildfire prevention,
45 suppression and emergency management as provided by section 37-622,
46 subsection B.

1 B. The director may:

2 1. Issue commissions to officers of the department.

3 2. Request the cooperation of the utilities, communication media and
4 public and private agencies and any sheriff or other peace officer in any
5 county or municipality, within the limits of their respective jurisdictions
6 when necessary, to aid and assist in the performance of any duty imposed by
7 this chapter.

8 3. Cooperate with any public or private agency or person to receive or
9 give necessary assistance and may contract for such assistance subject to
10 legislative appropriation controls.

11 4. Utilize the advice of the board and cooperate with sheriffs, local
12 police and peace officers within the state for the prevention and discovery
13 of crimes, the apprehension of criminals and the promotion of public safety.

14 5. Acquire in the name of the state, either in fee or lesser estate or
15 interest, any real or personal property ~~which~~ THAT the director considers
16 necessary for the department's use, by purchase, donation, dedication,
17 exchange or other lawful means. All acquisitions of personal property
18 pursuant to this paragraph shall be made as prescribed in chapter 23 of this
19 title unless otherwise provided by law.

20 6. Dispose of any property, real or personal, or any right, title or
21 interest therein, when the director determines that such property is no
22 longer needed or necessary for the department's use. Disposition of personal
23 property shall be as prescribed in chapter 23 of this title. The real
24 property shall be sold by public auction or competitive bidding after notice
25 published in a daily newspaper of general circulation, not less than three
26 times, two weeks ~~prior to~~ BEFORE the sale and subject to the approval of the
27 director of the department of administration. When real property is sold, it
28 shall not be sold for less than the appraised value as established by a
29 competent real estate appraiser. Any ~~funds~~ MONIES derived from the disposal
30 of real or personal property shall be deposited in the Arizona highway patrol
31 fund as authorized by section 41-1752, subsection B, paragraph 6.

32 7. Sell, lend or lease personal property directly to any state, county
33 or local law enforcement agency. Such personal property may be sold or
34 leased at a predetermined price without competitive bidding. Any state,
35 county or local law enforcement agency receiving such property may not resell
36 or lease such property to any person or organization except for educational
37 purposes.

38 8. Dispose of surplus property by transferring such property to the
39 department of administration for disposition to another state budget unit or
40 political subdivision if such state budget unit or political subdivision is
41 not a law enforcement agency.

42 9. Lease or rent personal property directly to any state law
43 enforcement officer for the purpose of traffic safety, traffic control or
44 other law enforcement related activity.

45 10. Sell for one dollar, without public bidding, the department issued
46 handgun or shotgun to a department officer on duty related retirement

1 pursuant to title 38, chapter 5, article 4. Any ~~funds~~ MONIES derived from
2 the sale of the handgun or shotgun to the retiring department officer shall
3 be deposited, pursuant to sections 35-146 and 35-147, in the Arizona highway
4 patrol fund as authorized by section 41-1752, subsection B, paragraph 6.

5 11. Conduct state criminal history records checks for the purpose of
6 updating and verifying the status of current licensees or registrants who
7 have a license or certificate issued pursuant to title 32, chapter 26. The
8 director shall investigate, upon receipt, credible evidence that a licensee
9 or registrant has been arrested for, charged with or convicted of an offense
10 that would preclude the person from holding a registration certificate issued
11 pursuant to title 32, chapter 26.

12 12. Grant a maximum of two thousand eighty hours of industrial injury
13 leave to any sworn department employee who is injured in the course of the
14 employee's duty and whose work-related injury prevents the employee from
15 performing the normal duties of that employee's classification. This
16 industrial injury leave is in addition to any vacation or sick leave earned
17 or granted to the employee and does not affect the employee's eligibility for
18 any other benefits, including workers' compensation. On retirement or
19 separation from the department or on reclassification to civilian status, the
20 employee forfeits any unused industrial injury leave and is not eligible for
21 payment pursuant to section 38-615. Subject to approval by the law
22 enforcement merit system council, the director shall adopt rules and
23 procedures regarding industrial injury leave hours granted pursuant to this
24 paragraph.

25 C. The director and any employees of the department ~~which~~ THAT the
26 director designates in writing may use the seal adopted pursuant to
27 subsection A, paragraph 6 of this section to fully authenticate any
28 department records and copies of these records. These authenticated records
29 or authenticated copies of records shall be judicially noticed and shall be
30 received in evidence by the courts of this state without any further proof of
31 their authenticity.

32 Sec. 11. Termination of department of administration local
33 board; transfer of personnel, records and equipment;
34 transfer of retirement assets; study

35 A. The department of administration public safety personnel retirement
36 system local board is terminated. The department of administration shall
37 transfer the records of employees who are currently members of the public
38 safety personnel retirement system to the department of public safety public
39 safety personnel retirement system local board.

40 B. All equipment, records, furnishings, vehicles and other property,
41 all data and investigative findings and all appropriated and nonappropriated
42 monies that remain unexpended and unencumbered on the effective date of this
43 act that relate to the capitol police are transferred from the department of
44 administration to the department of public safety. All equipment, records,
45 furnishings, vehicles and other property that are transferred pursuant to

1 this subsection shall not be upgraded at the time of transfer unless the
2 legislature approves of the upgrade.

3 C. All personnel who are under the state personnel system and employed
4 by the department of administration as capitol police personnel are
5 transferred to the same positions and pay classifications in the respective
6 administrative units of the department of public safety on the effective date
7 of this act, unless the law enforcement merit system council determines that
8 the transferred personnel should be transferred to other positions and pay
9 classifications.

10 D. The administrator of the public safety personnel retirement system
11 shall transfer the assets in the public safety personnel retirement system
12 department of administration account to the public safety personnel
13 retirement system department of public safety account.

14 E. The law enforcement merit system council shall conduct a study by
15 December 31, 2005 of the positions and pay classifications of all personnel
16 who are under the state personnel system and employed by the department of
17 administration as capitol police personnel and who are transferred to the
18 department of public safety pursuant to this section. The council shall
19 determine the appropriate position and pay classification for each
20 transferred employee and shall report this information to the joint
21 legislative budget committee.